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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/291,195	04/14/1999	MASAHITO NIIKAWA	032567-011	1785

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EXAMINER

HANNETT, JAMES M

ART UNIT PAPER NUMBER

2612

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/291,195

Applicant(s)

NIIKAWA, MASAHIITO

Examiner

James M Hannett

Art Unit

2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Examiners response to arguments.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 10-17.Claim(s) objected to: 2-5, 8 and 9.Claim(s) rejected: 1, 6 and 7.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

***Response to Arguments***

Applicant's arguments filed 12/16/2004 have been fully considered but they are not persuasive. As for the applicants arguments pertaining to the rejected claims, The examiner has clarified the rejection in the following office action to make the current grounds of rejection more clearly understood. The examiner has cited new paragraphs, corrected reference numbers to certain features to address the arguments by the applicant and added new comments and explanations to the current ground of rejection..

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**1:** Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by US

2003/0128283 Watanabe et al.

**2:** In regards to Claim 1, Watanabe et al depicts in figure 10 the use of an image processing system including a photographing apparatus (1a) and an image processing apparatus (2a)

Watanabe et al teaches on Paragraph [0113] that the camera (1a) can be connected to ANY arbitrarily selected computer. Furthermore, Watanabe et al depicts in Figure 10 that the photographing apparatus (1a) can have an external memory card (70) attached to it. Furthermore, Watanabe et al depicts in Figure 10 and teaches on Paragraph [0109] that the photographing apparatus (1a) comprises a controller (58) for executing a program stored in the recording

Art Unit: 2612

medium (70). Watanabe et al teaches that the camera (1a) is controlled by executing a camera utility program that is stored in the external memory card (70). Watanabe et al teaches that camera utility program is started by the computer and executed by the camera which is being controlled by the control unit (58). Watanabe et al teaches on Paragraph [0109] that a camera utility program is stored in an external flash memory card (70) for driving the image pickup system (1a). Watanabe further teaches on Paragraph [0095] that the external memory card is formed of flash memory. Therefore, It is inherent that a computer with a processor stored the camera utility program on to the flash memory card (70). Furthermore, as stated above, Watanabe et al teaches that the camera (1a) can be connected to any arbitrary computer.

Therefore, the examiner does not rely upon the image processing apparatus (2b) as depicted in Figure 10 to be the specific computer used in the image processing system as claimed. Watanabe et al stated that the camera can be connected to any computer system. Furthermore, it is viewed by the examiner that it is inherent that a computer system was used to store the camera utility program in the flash memory of the memory card (70). Therefore, Watanabe et al teaches that a computer that stores the camera utility program onto the memory card can be connected to the camera (1a). This process of storing the camera utility program onto the flash memory card (70) is viewed as creating a region accessible from the photographing apparatus (1a).

3: As for Claim 6, Watanabe teaches on Paragraphs [0094 and 0109] and depicts in Figure 10 a photographing apparatus (1a), comprising: an image sensor (53); a memory (57) for recording image data taken by the image sensor (53); an interface (61) for reading a program (camera utility program) for processing the image data recorded in the memory (57) out of an external recording medium (70); and a controller (58) for executing the program (camera utility

Art Unit: 2612

program) read out from the external recording medium (70). Watanabe teaches the use of a camera that captures images using a CCD image sensor and then stores the captured image data in FIFO memory (57). Watanabe teaches that the camera is controlled by camera controller (58) by executing a camera utility program that is stored in an external memory card (70).

4: In regards to Claim 7, The memory (57) of Watanabe is attachable to and detachable from the photographing apparatus (1a). The examiner views all the components in the camera to be attached to the camera and can be removed from the camera. This claim is broad and does not state that the memory needs to be a removable memory card or for that matter that the camera needs to continue to operate after the memory card has been remove.

***Allowable Subject Matter***

5: Claims 1-5 and 10-17 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art does not teach nor fairly suggest the use of a camera that executes a program stored in a recording medium that is controlled by an external image processing apparatus. Furthermore, the image processing apparatus creates a region accessible from the camera, and causes the program to be stored in the region.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2612

8: Claims 2-5, 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hannett whose telephone number is 703-305-7880. The examiner can normally be reached on 8:00 am to 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is 703-308-6789.

Application/Control Number: 09/291,195  
Art Unit: 2612

Page 6

James M Hannett  
Examiner  
Art Unit 2612

JMH  
January 24, 2005

  
TUAN HO  
PRIMARY EXAMINER